

## Department of Homeland Security

## § 334.4

Service employee conducting the interview will sign the photographs as provided in paragraph (c)(1) of this section.

(d) The photographs must be signed when submitted with an application if the instructions accompanying the application so require. If signature is not required by the instructions, the photographs are to be submitted without being signed and shall be signed at such later time during the processing of the application as may be appropriate.

[56 FR 50495, Oct. 7, 1991]

### § 333.2 Attachment of photographs to documents.

A signed photograph of the applicant must be securely and permanently attached to each certificate of naturalization or citizenship, to each original and duplicate declaration of intention issued by the Service, and to each replacement copy of a declaration of intention, certificate of naturalization, or certificate of citizenship issued by the Service. If a seal is affixed to the document, the imprint of a part of the seal must extend over the lower portion of the photograph in such a manner as not to obscure the features of the applicant.

[56 FR 50495, Oct. 7, 1991]

## PART 334—APPLICATION FOR NATURALIZATION

Sec.

334.1 Filing of application for naturalization.

334.2 Application for naturalization.

334.3 [Reserved]

334.4 Investigation and report if applicant is sick or disabled.

334.5 Amendment of application for naturalization; reopening proceedings.

334.6-334.10 [Reserved]

334.11 Declaration of intention.

334.12-334.15 [Reserved]

334.16 Amendment of petition for naturalization.

334.17 Transfer of petition for naturalization.

334.18 Withdrawal of petition and failure to prosecute.

AUTHORITY: 8 U.S.C. 1103, 1443; 8 CFR part 2.

### § 334.1 Filing of application for naturalization.

Any person who is an applicant under sections 316, 319, 324, 325, 327, 328, 329, or 330 of the Act and the corresponding parts of this chapter, may apply for naturalization in accordance with the procedures prescribed in this chapter in accordance with the instructions on the form.

[56 FR 50496, Oct. 7, 1991, as amended at 66 FR 32147, June 13, 2001; 74 FR 26941, June 5, 2009]

### § 334.2 Application for naturalization.

(a) An applicant may file an application for naturalization by filing a completed Form N-400 signed in the applicant's own handwriting, if physically able to do so, and by including any other documents required by parts 316, 319, 324, 325, 327, 328, 329, and 330 of this chapter, as appropriate. An application prepared for a person physically unable to write shall be signed by the preparer, in the space marked "Preparer's signature." The applicant shall include the fee as required in § 103.7 of chapter B of this title, and a photocopy of the applicant's Alien Registration Card (Form I-551).

(b) An application for naturalization may be filed up to 90 days prior to the completion of the required period of residence, which may include the three-month period of residence required to establish jurisdiction under section 316(a) or 319(a) of the Act.

[56 FR 50496, Oct. 7, 1991, as amended at 59 FR 48780, Sept. 20, 1993; 66 FR 32147, June 13, 2001]

### § 334.3 [Reserved]

### § 334.4 Investigation and report if applicant is sick or disabled.

Whenever it appears that an applicant for naturalization may be unable, because of sickness or other disability, to appear for the initial examination on the application or for any subsequent interview, the district director shall cause an investigation to be conducted to determine the circumstances surrounding the sickness or disability. The district director shall determine, based on available medical evidence, whether the sickness or disability is of a nature which so incapacitates the applicant as to prevent the applicant's

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appearance at a Service office having jurisdiction over the applicant's place of residence. If so, the district director shall designate another place where the applicant may appear for the requisite naturalization proceedings.

[58 FR 49913, Sept. 24, 1993]

### § 334.5 Amendment of application for naturalization; reopening proceedings.

(a) *Clerical amendments*—(1) *By applicant*. An applicant may request that the application for naturalization be amended either prior to or subsequent to the administration of the oath of allegiance.

(2) *By Service*. The Service may amend, at any time, an application for naturalization when in receipt of information that clearly indicates that a clerical error has occurred.

(3) *Amendment procedure*. Any amendment will be limited to the correction of clerical errors arising from oversight or omission. If the amendment is approved, the amended application shall be filed with the original application for naturalization.

(b) *Substantive amendments*. Any substantive amendments which affect the jurisdiction or the decision on the merits of the application will not be authorized. When the Service is in receipt of any information that would indicate that an application for naturalization should not have been granted on the merits, the Service may institute proceedings to reopen the application before admission to citizenship, or to revoke the naturalization of a person who has been admitted to citizenship, in accordance with section 340 of the Act and § 335.5 of this chapter.

[56 FR 50496, Oct. 7, 1991]

### §§ 334.6–334.10 [Reserved]

### § 334.11 Declaration of intention.

(a) *Application*. Any person who is a lawful permanent resident over 18 years of age may file an application for a declaration of intention to become a citizen of the United States while present in the United States. Such application, with the requisite fee, shall be filed on Form N-300.

(b) *Approval*. If approved, the application for the declaration of intention,

page 1 of Form N-300, shall be retained and filed in the applicant's Service file. The original of the declaration of intention, page 2 of Form N-300, shall be filed in chronological order in the official files of the Service office where the application was filed. The duplicate of the declaration of intention, page 3 of Form N-300, shall be delivered to the applicant.

(c) *Denial*. If an application is denied, the applicant shall be notified in writing of the reasons for denial. No appeal shall lie from this decision.

[58 FR 49913, Sept. 24, 1993, as amended at 74 FR 26941, June 5, 2009]

### §§ 334.12–334.15 [Reserved]

### § 334.16 Amendment of petition for naturalization.

(a) *During pendency of petition*. An application to amend a petition for naturalization, filed prior to October 1, 1991, while such petition is pending, shall be made by the petitioner on Form N-410, with copies thereof equal to the number of copies of the petition for naturalization, and presented to the court at the hearing on the petition for naturalization. The application shall be accompanied by the fee specified in § 103.7(b)(1) of this chapter, unless it was initiated by, and for the convenience of, the government. When the court orders the petition amended, the original order shall be filed with the original petition and the copies attached to the respective copies of the petition.

(b) *After final action on petition*. Whenever an application is made to the court to amend a petition for naturalization after final action thereon has been taken by the court, a copy of the application shall be served upon the district director having administrative jurisdiction over the territory in which the court is located, in the manner and within the time provided by the rules of court in which application is made. No objection shall be made to the amendment of a petition for naturalization after the petitioner for naturalization has been admitted to citizenship if the motion or application is to correct a clerical error arising from oversight or omission. A representative of the Service may appear

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at the hearing upon such application and be heard in favor of or in opposition thereto. When the court orders the petition amended, the clerk of court shall transmit a copy of the order to the district director for inclusion in the Service file.

[22 FR 9819, Dec. 6, 1957, as amended at 32 FR 9635, July 4, 1967; 45 FR 10313, Feb. 15, 1980; 56 FR 50496, Oct. 7, 1991]

### § 334.17 Transfer of petition for naturalization.

(a) *Application for transfer.* An application to transfer a petition for naturalization, filed prior to October 1, 1991, shall be made on Form N-455, in quadruplicate, to the district director exercising administrative jurisdiction over the place where the court in which the petition is filed is located.

(b) *Action by district director.* If the district director consents to the transfer, he shall so indicate on each copy of Form N-455, which shall be filed with the clerk of court in which the petition is pending. If the district director does not consent to the transfer he shall so indicate on each copy of Form N-455 which shall be filed with the clerk of court, with a memorandum of the district director setting forth the reasons for the denial. The applicant shall be notified by the district director of the filing of Form N-455 with the clerk of court, and whether consent has been given by the district director.

(c) *Action by court in which petition is filed.* The court in which the petition is filed shall enter an order on the original copy of Form N-455, approving or disapproving the application. If the application is approved, the original copy of Form N-455 shall be filed with the naturalization record in the office of the clerk of court, the duplicate and triplicate copies, duly attested and certified, transmitted to the court to which the petition is to be transferred, and the quadruplicate copy, also attested and certified, transmitted to the district director. If the application is disapproved, the original Form N-455 shall be filed with the naturalization record in the office of the clerk of court and the remaining copies transmitted to the district director, who shall notify the applicant of the disapproval.

(d) *Action by court to which petition is transferred.* The court to which the petition is to be transferred shall enter an order on the duplicate copy of Form N-455, approving or disapproving the transfer. The duplicate copy shall be filed with the clerk of the court to which the petition is to be transferred, and the triplicate copy, duly attested and certified, transmitted to the clerk of the court in which the petition is filed. If the application is disapproved, the clerk of court receiving the triplicate copy shall notify the district director, who shall notify the applicant of the disapproval.

(e) *Transfer of petition and record.* If the court to which the petition is to be transferred approves the transfer, the clerk of court in which the petition is filed shall file the triplicate copy of Form N-455 with the naturalization record and forward a certified copy of the petition, and the originals of all documents filed relating thereto, to the court to which the petition is being transferred, and notify the district director having administrative jurisdiction over the place in which the petition is filed, of the action taken. Upon receipt of the certified copy and record, the clerk of court to which the petition is transferred shall index it, number it consecutively in the order in which it is received, prefixed by the letters TR, and in a series separate from petitions originally filed in the court. The petition shall be made a part of the record of the naturalization court. No fee shall be charged by the clerk of the court to which the petition is transferred for the filing of the transferred petition or the issuance of a certificate of naturalization.

[22 FR 9820, Dec. 6, 1957; 22 FR 9520, Nov. 28, 1957, as amended at 23 FR 5820, Aug. 1, 1958; 56 FR 50496, Oct. 7, 1991]

### § 334.18 Withdrawal of petition and failure to prosecute.

(a) A petitioner who desires to withdraw his petition for naturalization, filed prior to October 1, 1991, shall make request for withdrawal on Form N-404, in duplicate. The original shall be filed with the clerk of court and the duplicate with the office of the Service exercising administrative jurisdiction over the district in which the court is

located. At the final hearing upon the petition, the officer in attendance shall inform the court whether the district director consents to the withdrawal of the petition. In cases in which the district director does not consent to the withdrawal, the court shall determine the petition on its merits.

(b) At the final hearing upon a petition for naturalization which the petitioner has failed to prosecute, the officer in attendance shall inform the court whether the district director consents to dismissal of the petition for lack of prosecution. In cases in which the district director does not move that the petition be dismissed for lack of prosecution, the court shall determine the petition on its merits.

[22 FR 9819, Dec. 6, 1957, as amended at 56 FR 50496, Oct. 7, 1991]

## PART 335—EXAMINATION ON APPLICATION FOR NATURALIZATION

### Sec.

- 335.1 Investigation of applicant.
- 335.2 Examination of applicant.
- 335.3 Determination on application; continuance of examination.
- 335.4 Use of record of examination.
- 335.5 Receipt of derogatory information after grant.
- 335.6 Failure to appear for examination.
- 335.7 Failure to prosecute application after initial examination.
- 335.8 [Reserved]
- 335.9 Transfer of application.
- 335.10 Withdrawal of application.
- 335.11 Preliminary examinations on petitions for naturalization filed prior to October 1, 1991.
- 335.12 Recommendations on petitions for naturalization of the designated examiner and regional administrator; notice.
- 335.13 Notice of recommendation on petitions for naturalization of designated examiner.

AUTHORITY: 8 U.S.C. 1103, 1443, 1447.

### § 335.1 Investigation of applicant.

Subsequent to the filing of an application for naturalization, the Service shall conduct an investigation of the applicant. The investigation shall consist, at a minimum, of a review of all pertinent records, police department checks, and a neighborhood investigation in the vicinities where the applicant has resided and has been em-

ployed, or engaged in business, for at least the five years immediately preceding the filing of the application. The district director may waive the neighborhood investigation of the applicant provided for in this paragraph.

[56 FR 50497, Oct. 7, 1991]

### § 335.2 Examination of applicant.

(a) *General.* Subsequent to the filing of an application for naturalization, each applicant shall appear in person before a Service officer designated to conduct examinations pursuant to § 332.1 of this chapter. The examination shall be uniform throughout the United States and shall encompass all factors relating to the applicant's eligibility for naturalization. The applicant may request the presence of an attorney or representative who has filed an appearance in accordance with part 292 of this chapter.

(b) *Completion of criminal background checks before examination.* The Service will notify applicants for naturalization to appear before a Service officer for initial examination on the naturalization application only after the Service has received a definitive response from the Federal Bureau of Investigation that a full criminal background check of an applicant has been completed. A definitive response that a full criminal background check on an applicant has been completed includes:

(1) Confirmation from the Federal Bureau of Investigation that an applicant does not have an administrative or a criminal record;

(2) Confirmation from the Federal Bureau of Investigation that an applicant has an administrative or a criminal record; or

(3) Confirmation from the Federal Bureau of Investigation that two properly prepared fingerprint cards (Form FD-258) have been determined unclassifiable for the purpose of conducting a criminal background check and have been rejected.

(c) *Procedure.* Prior to the beginning of the examination, the Service officer shall make known to the applicant the official capacity in which the officer is conducting the examination. The applicant shall be questioned, under oath or affirmation, in a setting apart from the